

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	NO. 1:CR-12-45
v.	:	
	:	(JUDGE RAMBO)
JAMES A. BROWN, JR.	:	
Defendant.	:	

MOTION TO CORRECT INDICTMENT

COMES NOW, the United States of America, by its undersigned counsel, moves to correct the Indictment filed in the above-captioned case. In support of this motion, the United States alleges as follows:

1. On February 22, 2012, a one-count Indictment was filed against the defendants charging him with Failure to Surrender for Service of Sentence.
2. Following the filing of this Indictment, the United States realized that the first two numbers for the citation to the statute have been transposed. Specifically, the statute was cited as Title 18, United States Code, Section 1346(a)(2). However, the correct statute is Title 18, United States Code, Section 3146(a)(2). The error is a matter of form and does not affect the substance of the

charge pending against the defendant as the language of the statute is incorporated into indictment.

3. It is well-established that this Court may order amendments of a charging document that relate merely to matters of form. Russell v. United States, 369 U.S. 749, 770 (1962). Thus, the Court may allow amendments to correct misnomers or typographical errors. See e.g., United States v. Perez, 776 F.2d 797 (9th Cir. 1985)(correction of defendant's name); United States v. McGrath, 558 F.2d 1102, 1105 (2d Cir. 1977), cert. denied, 434 U.S. 1036 (1978)(misnomer in name of victim); United States v. Denny, 165 F.2d 668 (7th Cir.), cert. denied, 333 U.S. 844 (1947)(misspelling of defendant's name not fatal to indictment); United States v. Owens, 334 F. Supp. 1030 (D. Minn. 1971). In this case, the amendment requested by the United States is purely a matter of form and does not affect the substance of the charge pending against the defendant. Rather, the proposed change simply corrects an inadvertent typographical error.

4. Counsel for the defendant, Lori Ulrich, was unavailable. However, the federal public defender, James Wade, was contacted and concurred in this request.

Wherefore, the United States requests that the Court grant its Motion to Correct Indictment and enter an order correcting and amending the Indictment to

reflect the changes as noted above. The errors are matters of form and do not affect the substance of the charges pending against the defendant. In accordance with Local Rule 7.5, no brief in support of this motion is being filed because the motion has the concurrence of opposing counsel and the reasons for the motion and the relief sought are set forth fully herein.

Respectfully submitted,

PETER J. SMITH
United States Attorney

Date: 28 February 2012

s/ Daryl F. Bloom
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers. That on this Tuesday, February 28, 2012, he served a copy of the attached

MOTION TO CORRECT INDICTMENT

by electronic means to:

Addressee:
Lori Ulrich
Email: Lori_Ulrich@fd.org

Dated: February 28, 2012

s/ Daryl F. Bloom
DARYL F. BLOOM
Assistant United States Attorney